

SA 2005 RF 0089

July 11, 2005

Ms. Tricia Knight  
Initiative Coordinator  
Office of the Attorney General  
State of California  
PO BOX 994255  
Sacramento, CA 94244-25550

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title & Summary for proposed initiative

Dear Ms. Knight:

Pursuant to Article II, Section 10(d) of the California Constitution, we are submitting the attached proposed statewide ballot measure, the Safe Schools Act of 2006, to your office and request that you prepare a title and summary of the measure as provided by law. Included with this submission are the addresses at which we are registered to vote. We have also included a check to cover the \$200 filing fee.

Thank you for your time and attention to this matter. If you require additional information or have any questions, please feel free to contact Dave Gilliard, 921 11<sup>th</sup> Street, Suite 400, Sacramento, CA 95814, (916)-444-1502.

Very truly yours,

Rick Gann

Jeff Gibson

**Section I. Title.**

This measure shall be known, and may be cited, as "Jessica's Law -- The Child Safety Act of 2006".

**Section II. Finding and Declarations**

The people of the State of California have the right to safe schools and parks where children can learn and play without being victimized. Current law does not do enough to protect children at school and in public parks from child molesters and sex offenders, who are among the most likely to recommit their offenses once released from state prison. Merely restricting the location of a sex offender's *residence* is not enough to ensure the safety of children.

The People of the State of California find and declare that this measure is narrowly tailored to serve a compelling state interest, namely the right of children to be safe from predation by sex offenders, and such interest far outweighs any impact this measure may have on the rights of convicted sex offenders. The People of the State of California hereby adopt the decision of the Eighth Circuit Court of Appeals in Case No. 04-1568, John Doe v. Tom Miller (April 29, 2005) as controlling law with respect to this measure.

Therefore, the people find it necessary to enact Jessica's Law -- The Child Safety Act of 2006.

**Section III. Jessica's Law: Extended Imprisonment for Certain Sex Offenders**

Section 269 of the California Penal Code is hereby amended as follows:

269. (a) Any person who commits any of the following acts upon a child who is under 14 years of age and 40 seven or more years younger than the person is guilty of aggravated sexual assault of a child:

(1) A violation of paragraph (2) of subdivision (a) of Section 261.

(2) A violation of Section 264.1.

(3) Sodomy, in violation of Section 286, when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(4) Oral copulation, in violation of Section 288a, when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(5) A violation of subdivision (a) of Section 289.

(6) A violation of subdivisions (a) or (b) of Section 288.

(b) Any person who violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 15 years to life without possibility of parole or early release.

(c) All terms of imprisonment imposed for violations of this section shall be consecutive to, and not concurrent with, any other sentence or term of imprisonment.

Section 288.6 is hereby added to the California Penal Code as follows:

288.6 Any person hereafter convicted in any court of a violation of Section 269, Section 288 or Section 288.5, and who previous to that conviction had been convicted in any court of a violation of Section 269, Section 288 or Section 288.5, or any statutory predecessors, or of any offense that if committed in this state would have been punishable under these sections or statutory predecessors, shall be shall be punished by imprisonment in the state prison for life without possibility of parole or early release.

#### **Section IV. Permanent Extension of Specialized Parole Supervision for High Risk Sex Offenders.**

Section 3005 of the California Penal Code is hereby amended as follows:

3005. (a) The Department of Corrections, to the maximum extent practicable and feasible, and subject to legislative appropriation of necessary funds, shall ensure, by July 1, 2001, that all parolees under active supervision and deemed to pose a high risk to the public of committing violent sex crimes shall be placed on an intensive and specialized parole supervision caseload.

(b) The Department of Corrections shall develop and, at the discretion of the director, and subject to an appropriation of the necessary funds, may implement a plan for the implementation of relapse prevention treatment programs, and the provision of other services deemed necessary by the department, in conjunction with intensive and specialized parole supervision, to reduce the recidivism of high-risk sex offenders.

(c) The Department of Corrections shall study the effects of this legislation on recidivism rates of parolees. The study shall be a two-year analysis completed by January 1, 2003, with an initial report to the Legislature on or before January 1, 2004, and a final report on or before January 1, 2006.

~~(d) This section shall remain in effect only until July 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2006, deletes or extends that date.~~ This section is hereby made permanent.

## **Section V. Creation of Safe School and Park Zones.**

Section 3005.1 is hereby added to the California Penal Code as follows:

3005.1 (a) An inmate who is released from prison on parole for any violation of Sections 269, 288 or 288.5 shall not be allowed, for the duration of his or her period of parole, under any circumstances, within one half mile of any public or private pre-elementary, elementary, secondary, or post-secondary school or within one half mile of any park with public access (hereinafter, a "Safe School and Park Zone"); any such released inmate shall for the remainder of his or her parole wear a tamper-proof global positioning device approved by the state or local law enforcement authorities such that it will alert state or local law enforcement authorities of his or her location at all times. Engaging in any activity that disables or tampers with the ability of the global positioning device to function properly is a felony punishable by imprisonment in a state prison of two, three, or four years without possibility of parole or early release.

(b) Any violation of this section shall constitute a violation of parole. Immediately upon violation of this section, a parolee shall be returned to prison pursuant to Section 3060, and the parole authority shall revoke his or her parole. This section shall not apply to a parolee in compliance with Section 3005.5.

Section 3005.2 is hereby added to the California Penal Code as follows:

3005.2 Any person who has been or is hereafter convicted in any court of a violation of Section 269, Section 288 or Section 288.5 or any statutory predecessors, or of any offense that if committed in this state would have been punishable under these sections or statutory predecessors, and enters within one half mile of any public or private pre-elementary, elementary, secondary, or post-secondary school, or within one half mile of any park with public access, shall be punished by imprisonment in a state prison for two, three, or four years without possibility of parole or early release. This provision shall not apply to a person in compliance with Section 3005.5.

Section 3005.3 is hereby added to the California Penal Code as follows:

3005.3 (a) Any person hereafter convicted in any court of a violation of Section 269, Section 288, Section 288.5, Section 290, or Section 290.01 shall upon release from custody for the remainder of his or her life wear a tamper-proof global positioning device approved by the state or local law enforcement authorities such that it will alert state or local law enforcement authorities of his or her location at all times. Engaging in any

activity that disables or tampers with the ability of the global positioning device to function properly is a felony punishable by imprisonment in a state prison of two, three, or four years without possibility of parole or early release.

(b) Any person who, previous to the adoption of this Act, has been convicted in any court of a violation of Section 269, Section 288, or Section 288.5 or any statutory predecessors, or of any offense that if committed in this state would have been punishable under these sections or statutory predecessors, and who subsequently is convicted of any crime punishable by one or more years of imprisonment, shall upon release from custody for the remainder of his or her life wear a tamper-proof global positioning device approved by state or local law enforcement authorities such that it will alert state or local law enforcement authorities of his or her location at all times. Engaging in any activity that disables or tampers with the ability of the global positioning device to function properly is a felony punishable by imprisonment in a state prison for a term of two, three, or four years without possibility of parole or early release.

Section 3005.4 is hereby added to the California Penal Code as follows:

3005.4 All terms of imprisonment imposed for violations of Section 3005.1, Section 3005.2, or Section 3005.3 shall be served consecutive to, and not concurrent with, any other sentence or term of imprisonment.

Section 3005.5 is hereby added to the California Penal Code as follows:

3005.5 (a) A person shall not be in violation of Sections 3005.1 or 3005.2 if his or her encroachment of a Safe School and Park Zone occurred while the person was:

- 1) in transit under custody; or,
- 2) traveling for the exclusive purpose of receiving emergency medical care; or,
- 3) traveling for the exclusive purpose of meeting state or local registration requirements for sex offenders; or,
- 4) traveling for the exclusive purpose of complying with a court order; or,
- 5) traveling to or on an interstate highway for the exclusive purpose of traveling to a geographical area that would otherwise be in compliance with Sections 3005.1 and 3005.2, but cannot be visited without driving through a Safe School and Park Zone; or,
- 6) then incarcerated in a jail, prison, or other correctional facility.

(b) A person shall not be in violation of Sections 3005.1 or 3005.2 if his or her encroachment of a Safe School and Park Zone occurred while the

person was wearing a tamper-proof global positioning device approved by state or local law enforcement authorities such that it would alert state or local law enforcement authorities of his or her location at all times; AND one of the following occurred:

1) the person was legally residing in a geographical area outside of a Safe School and Park Zone, and was traveling to and from his residence for the exclusive purpose of going to and from his or her place of employment; or,

2) the person was legally residing in a geographical area outside of a Safe School and Park Zone, and was traveling to and from his residence for the exclusive purpose of receiving non-emergency medical care; or,

3) the person was legally residing in a geographical area outside of a Safe School and Park Zone, and was traveling to and from his residence for the exclusive purpose of visiting a courthouse, an office of the State of California, an office of the United States Government, or a probation officer.

Engaging in any activity that disables or tampers with the ability of the global positioning device to function properly is a felony punishable by imprisonment in a state prison of two, three, or four years without possibility of parole or early release.

(c) Any state or local law enforcement authority with the responsibility of monitoring a person via a global positioning device pursuant to Sections 3005.3 or 3005.5 shall have the right to collect annually from the person an amount of money equaling the total annual cost of monitoring the person.

## **Section VI. Liberal Construction.**

The provisions of this Act shall be liberally construed to effectuate its purposes of preventing interaction between convicted high-risk sex offenders and students.

## **Section VII. Severability.**

If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.